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AO 91 (Rev. 11/11) Criminal Complaint

AUSA Eric S. Pruitt (312) 353-5496

INTAKE

MAR 21 2019

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

MAR 21 2019

UNITED STATES OF AMERICA

v.

MARIO BANKS, JR.

CASE NUMBER: **MAGISTRATE JUDGE
JEFFREY I. CUMMINGS**

19CR 268

CRIMINAL COMPLAINT

MAGISTRATE JUDGE CUMMINGS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Count One

Code Section

Title 18, United States Code, Section 1951(a)

Offense Description

On or about November 4, 2018, at Lincolnwood, in the Northern District of Illinois, Eastern Division, defendant MARIO BANKS, JR., did obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by robbery, as defined in Title 18, United States Code, Section 1951(b), in that the defendant did unlawfully take and obtain United States currency from the person and in the presence of an employee of Bucky's Express Mobil gas station located at 6401 N. Cicero Avenue, Lincolnwood, Illinois, against the employee's will, by means of actual and threatened force, and fear of injury to that employee.

Count Two

Code Section

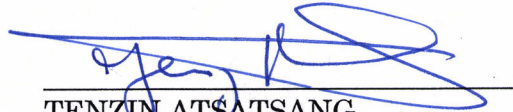
Title 18, United States Code, Section 924(c)

On or about November 4, 2018, at Lincolnwood, in the Northern District of Illinois, Eastern Division, defendant MARIO BANKS, JR., did use, carry, brandish and discharge a firearm during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, a robbery affecting commerce in violation

of Title 18, United States Code, Section 1951(a),
as charged in Count One of this Complaint.

This criminal complaint is based upon these facts:

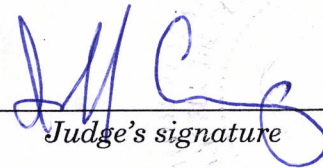
X Continued on the attached sheet.



TENZIN ATSATSANG
Special Agent, Federal Bureau of Investigation
(FBI)

Sworn to before me and signed in my presence.

Date: March 21, 2019


Judge's signature

City and state: Chicago, Illinois

Jeffrey Cummings, U.S. Magistrate Judge
Printed name and Title

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SS

AFFIDAVIT

I, TENZIN ATSATSANG, being duly sworn, state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed since approximately November 2005. I am currently assigned to the FBI's North Resident Agency, and my responsibilities include the investigation of violent crimes, including kidnaping, sex trafficking, bank robbery, and the apprehension of violent fugitives. I have participated in the execution of multiple federal search warrants.

2. This affidavit is submitted in support of a criminal complaint alleging that Mario Banks, Jr. has violated Title 18, United States Code, Section 1951(a) and Title 18, United States Code, Section 924(c). Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging BANKS with Hobbs Act robbery and use of a firearm in connection with a crime of violence, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

3. This affidavit is based on my personal knowledge, information provided to me by other law enforcement agents and from persons with knowledge regarding relevant facts.

FACTS SUPPORTING PROBABLE CAUSE TO SEARCH

Background of the Investigation

4. Between November 4, 2018, and February 19, 2019, five armed robberies were committed at gas stations, a hotel, and other retail establishments in the Chicago area. Law enforcement officers believe the robberies are connected based on descriptions of the robber, video surveillance images of the robber, and the common modus operandi used in each robbery, as described by the victims and law enforcement review of surveillance footage. Specifically, based on the evidence described below, law enforcement believes that MARIO BANKS JR. committed each of these robberies, and may have done so with the aid of one or more accomplice(s).

5. On March 19, 2019, officers with the Chicago Police Department ("CPD") placed BANKS under arrest in connection with a shooting that occurred in Chicago on February 17, 2018. As of the submission of this Affidavit, BANKS remains in CPD custody as a result of that arrest.

November 4, 2018, Armed Robbery of Business 1 in Lincolnwood

6. On November 4, 2018, the Bucky's Express Mobil gas station located at 6401 N. Cicero Avenue, Lincolnwood, Illinois ("Business 1") was robbed. Business 1 sells gasoline and contains a convenience store selling food, beverages and other items. According to the manager of Business 1, Individual A, the robber took approximately \$200 from the gas station. Individual A and a clerk, Individual B, were both working at the time of the robbery.

7. Individual A and Individual B stated that, on November 4, 2018, at approximately 6:08 a.m., they were both standing behind the counter of the gas station when an African-American male entered the business wearing white shoes, black pants, a hooded sweatshirt and a black mask covering his mouth and forehead. According to Individual A and Individual B, the man displayed a black revolver handgun and stated "give me all the money." Individual B stated that he then pulled the cash drawer from the cash register and set it on the counter. The robber then stated, "take the money out," and Individual B took the money out of the drawer and set it on the counter. According to Individual A and Individual B, the robber then grabbed the money, placed it in his pocket and walked out of the building. According to Individual A and Individual B, they followed the robber out of the store and watched as he walked southbound across Devon Avenue and into an alley east of an apartment complex located at 6343 N. Cicero Avenue.

8. Individual A and Individual B both described the robber as an African-American male in his 20s, between 5'5" to 5'7", and having a thin build, and both Individual A and Individual B described the robber as having distinct light brown eyes. According to Individual A, the subject had some form of a plastic bag on his left hand, which he used to gather the money from the robbery.

9. Business 1's surveillance footage of the robbery shows the robber to be a black male, approximately 20-30 years old, 5'5" to 5'7" tall, slender in build, and wearing black pants, a hooded sweatshirt and a black mask covering his mouth and forehead. A still image of the robber from that surveillance video is below.



10. The day before the robbery of Business 1, the Lincolnwood Police Department ("LPD") received information from the Chicago Police Department's (CPD) 17th District stating that the landlord of the apartment building at 6343-51 N. Cicero Avenue reported a light-skinned, African-American male was defecating in the alley behind the building on November 3, 2018, at approximately 8:00 a.m. This is the same alley that Individual A and Individual B saw the robber enter as he fled Business 1 following the robbery on November 4, 2018. The landlord's relative, who also saw the individual in the alley, stated that the individual he/she saw defecating in the alley entered a green sedan bearing Illinois Registration AY76037. Records of the Illinois Secretary of State show that this vehicle is registered to BANKS. Illinois Secretary of State records also indicate that BANKS is 24 years old, 5'5" tall, weighs 150 lbs., and has brown eyes.

11. The landlord and his/her relative both saw the individual in the alley on November 3, 2018, and were shown photographs of BANKS. Both individuals

identified the individual depicted in the photographs as the subject they saw in the alley the day before the robbery.

12. On December 7, 2018, law enforcement conducted a photo lineup with Individual A, the victim/manager of Business 1. Individual A stated that the eyes in the photograph of BANKS were similar to those of the robber. Individual A also stated that the skin tone of the robber was darker than depicted in the photograph of BANKS, but that it was possible that this was due to the lighting in the photograph. Except for the photograph of BANKS, Individual A excluded all the other photographs as being the robber.

13. On December 26, 2018, law enforcement conducted a photo lineup with Individual B, the victim/clerk of Business 1. Focusing on the eyes and area around the eyes of the individuals pictured in the photo lineup, Individual B identified BANKS as being the person who robbed Business 1 on November 4, 2018.

14. Law enforcement obtained historical cell site data for Subject Phone 1.¹ The cell site data for Subject Phone 1 showed that at 05:47 a.m. on November 4, 2018,

¹ Law enforcement believes BANKS to be the user of Subject Phone 1. The phone is subscribed to Tamara Laws, at 1634 Pitner Avenue, Evanston, Illinois. Tamara Laws is married to BANKS' father. Records of the Illinois Secretary of State show that the address of 1634 Pitner Avenue, Evanston, Illinois, is the address which BANKS has listed as his residence for his Illinois Driver's License. Law enforcement identified a Facebook account maintained by BANKS and obtained user profile information for that account from Facebook. The number for Subject Phone 1—312-866-0100—is the number associated with the Facebook account for BANKS in the profile information that Facebook maintains for the account. In addition, Entersect is an internet-based program that law enforcement uses to search for associations of phone numbers with names and addresses based on open-source public records. A search of this database shows the number for Subject Phone 1 is associated in public records with BANKS at 1634 Pitner Avenue, Evanston, Illinois.

(approximately 21 minutes before the robbery of Business 1), Subject Phone 1 connected to a cell phone tower at 6160 N. Cicero Avenue, which is within approximately three blocks from Business 1, which is located at 6401 N. Cicero Avenue.

December 3, 2018, Armed Robbery of Individual H in Schaumburg

15. On December 3, 2018, an individual staying at the Hawthorn Suites ("Business 4") located at 1200 Bank Drive, Schaumburg, Illinois was robbed at gunpoint of approximately \$250.

16. According to Individual H², he/she arrived in Schaumburg on the evening of December 3, 2018, and checked in to the hotel. Individual H stated that two individuals arrived at the hotel in a silver sedan while he/she was standing outside the hotel. Individual H stated that the driver pulled him/her into the front passenger seat of the car while another individual in the back seat wrapped his arm around Individual H's throat. According to Individual H, the driver then handed a handgun to the passenger in the back seat, who demanded the key to Individual H's room. Individual H further stated that the individuals retrieved a bag from his/her room and took \$250 from a wallet that had been in the bag. Law enforcement found the bag in Individual H's room, but the wallet was empty.

² Individual H has the following criminal convictions: Soliciting/Engaging in Prostitution (3/12/18); Disturbing the Peace (1/9/15); Soliciting/Engaging in Prostitution (10/22/14); Prostitution (9/11/10); Disturbing the Peace (1/8/10); and Solicitation of Prostitution (6/18/09).

17. Individual H initially stated that he/she had no prior contact with either of the individuals who had robbed him/her. However, Individual H later stated he/she had begun communicating with the driver of the vehicle a few days prior to the robbery. According to Individual H, prior to arriving in Schaumburg, he/she had communicated with the driver by text message. This driver used the phone number 312-866-0100 (Subject Phone 1) to communicate with Individual H and sent him/her a picture of himself, which Individual H provided to law enforcement. Below is an image of the picture of the driver that Individual H provided to law enforcement.



18. I have compared the photograph that Individual H identified as one of the robbers to the photograph of BANKS on file with the Illinois Secretary of State. Based on this comparison, I believe the individual in the picture that Individual H provided to law enforcement is BANKS.

February 16, 2019, Armed Robbery of Business 2 in Skokie

19. On February 16, 2019, at approximately 7:27 a.m., a Shell gas station located at 3301 Howard Street, Skokie, Illinois ("Business 2") was robbed. According to Individual C, a clerk who was working at the gas station during the robbery, the robber took approximately \$305 from the gas station.

20. According to Individual C, a male dressed in black, wearing a black face mask, entered the gas station and pointed a hand gun at him and told him to open the register. The robber then walked behind the counter and took all of the cash from the register. According to Individual C, the robber then left the store and walked north and then walked westbound on Howard Street.

21. A review of Business 2's video surveillance footage showed a male wearing black pants, black hoodie, and wheat colored "Timberland" style boots enter the store from the north. The robber was wearing a black glove with a small decal on his left hand and his right hand was bare. As the robber approached the door of the gas station before exiting, he briefly stood next to a measuring tape that was affixed to the door frame. The offender appeared to measure approximately 5'6" in comparison to the measuring tape.



22. Video surveillance footage was obtained from cameras located in the area surrounding Business 2. A review of video footage from red light cameras located at the intersection of Howard Street and McCormick Boulevard in Skokie and Closed Circuit Television (CCTV) from a business located at 7450 McCormick Boulevard, Skokie, IL 60076, both showed a gold or light tan color Chevrolet Malibu with a sticker in the lower driver's side rear window and a rear spoiler driving around Business 2 before the robbery and driving away from the area after the robbery.



23. On the same day as the robbery, the Skokie Police Department (SPD) disseminated a flier to surrounding police jurisdictions providing a summary of the armed robbery incident and included photographs of the gold Chevrolet Malibu and the masked offender. As a result, officers from the Evanston Police Department (EPD) identified the vehicle as appearing to be a vehicle with which EPD was familiar based on the owner's past interactions with law enforcement, *i.e.*, a gold Chevrolet Malibu bearing Illinois registration number 992491 owned by an Evanston resident, Individual D. EPD located the vehicle that day and observed the Chevrolet Malibu parked at 605 Hull Terrace, Evanston, IL, and also observed stickers on the lower driver's side rear window consistent with the stickers seen in the surveillance video of the vehicle observed in the area of Business 2 before and after the robbery.

February 17, 2019, Armed Robbery and Shooting of Individual E in Chicago

24. On February 17, 2019, the Chicago Police Department (CPD) responded to a person who was robbed and shot in the parking lot of AutoZone ("Business 3"), located at 2555 W. Touhy Avenue in Chicago. The victim, Individual E, stated that he/she was sitting in a parked vehicle in the parking lot when an African-American male approached the vehicle, opened the passenger side door, pointed a black revolver

at Individual E and told Individual E, "Don't be stupid, give me all your jewelry and everything inside your pockets." Individual E stated that he/she removed his/her watches and two necklaces he/she was wearing and threw them on the passenger side floor. Individual E stated that when Individual E observed the robber look away, Individual E tried to grab the firearm from the robber at which time the robber shot Individual E. The robber fled and Individual E exited the vehicle. Individual E observed the robber get into an older gold or tan vehicle and drive away southbound on Rockwell Avenue.

25. Individual E further stated that he/she recognized the robber as an individual he/she had seen on the night of February 16, 2019, when making a purchase at the A&M Convenience Store ("Business 5") located at 6958 N. Western Avenue in Chicago. Individual E stated that the robber had approached Individual E at the store and asked Individual E where he purchased the jewelry he/she was wearing.

26. On February 28, 2019, law enforcement conducted a photo lineup with Individual E. Individual E identified BANKS as being the person who robbed and shot him/her on February 17, 2019.³

³ Law enforcement reviewed surveillance video from Business 5 and surrounding businesses. Based on this review, law enforcement found video surveillance showing BANKS standing in line behind Individual E at the V.I.P. Liquors & Deli, 6963 N. Western Avenue, Chicago, Illinois, on February 17, 2019 at 1:00 a.m. In the video, BANKS can be seen briefly talking to Individual E. V.I.P. Liquors and Business 5 are on the same 6900 block of N. Western Avenue – Business 5 is on the west side of the street and V.I.P. Liquors is on the east side of the street.

27. An employee of Business 3, Individual F, stated that she/he observed the robber flee southbound on Rockwell Avenue in a gold Chevrolet Malibu bearing Illinois license plate number 792491. The license plate number that Individual F provided was determined to be one digit off from the license plate number (992491) of the Chevy Malibu that EPD identified on February 16, 2019, as likely being the vehicle identified in surveillance video as driving around Business 2 in Skokie before and after the robbery of Business 2 on February 16, 2019.

February 19, 2019, Armed Robbery of Business 1 in Lincolnwood

28. On February 19, 2019, the Bucky's Express Mobil gas station located at 6401 N. Cicero Avenue, Lincolnwood, Illinois ("Business 1") was robbed again. According to the manager of Business 1, Individual A, the robber took approximately \$278 from the gas station. Individual A was working at the time of the robbery.

29. Individual A stated an African-American male, dressed in a black jacket with a hood over his head and wearing a black facemask, entered Business 1 at approximately 6:26 a.m., displayed a black revolver, and stated "Give me the fucking money." Individual A walked to the cash register, removed the cash tray from the register and placed it on the counter. The robber took the money from the tray and ran out of Business 1. Individual A followed the robber out of the store and saw him run southbound across Devon Avenue into the alley east of Cicero Avenue running behind an apartment building located there. Individual A observed the robber enter into the driver side a vehicle parked on Cicero Avenue just south of Devon Avenue.

Individual A then saw the robber drive the vehicle southbound down Cicero Avenue. Individual A described the vehicle as a gold Chevrolet Malibu or Impala. Individual A stated he/she observed the same gold sedan parked on Cicero Avenue, facing northbound, with its headlights illuminated, at approximately 05:15 a.m., when he arrived to work.

30. A customer at Business 1, Individual G, also witnessed the robbery. Individual G described the robber as approximately 5'6", dressed in a black jacket with a hood pulled over his head, wearing a face mask. Individual G stated that the robber was holding a revolver when the robber fled the gas station. Individual G followed the robber as he fled the store, and observed the robber flee southbound across Devon Avenue into the alley east of Cicero Avenue. Individual G stated that he/she observed the robber enter the driver's door of a gold sedan parked on Cicero Avenue. Individual G stated it was a gold sedan with a rear spoiler.

31. Business 1's surveillance footage of the robbery shows the robber to be a black male, approximately 20-30 years old, 5'5" to 5'7" tall, slender in build, and wearing dark pants, a black coat and a black mask covering his mouth and forehead, and wheat-colored "Timberland" style boots. The surveillance video shows the robber enter the gas station at 06:30:10 a.m. and exit at 06:30:36 a.m. Two still images of the robber from that surveillance video is below.



32. Law enforcement obtained red light camera footage from the area where Individual A and Individual G reported seeing the robber flee in a vehicle. A review of the red light camera footage showed a gold Chevrolet Malibu with a rear spoiler with a sticker on the lower driver's side rear windshield traveling southbound on Cicero Avenue and conducting a right turn onto westbound Peterson Avenue at 06:32:28 a.m. The still image below shows the vehicle in the right lane of southbound Cicero Avenue, preparing to turn westbound on Peterson Avenue at 6:32 a.m. Although the license plate is not visible in this video, the spoiler and sticker in the lower left-hand corner of the rear window are visible in the image below.



February 21, 2019, Traffic Stop of BANKS

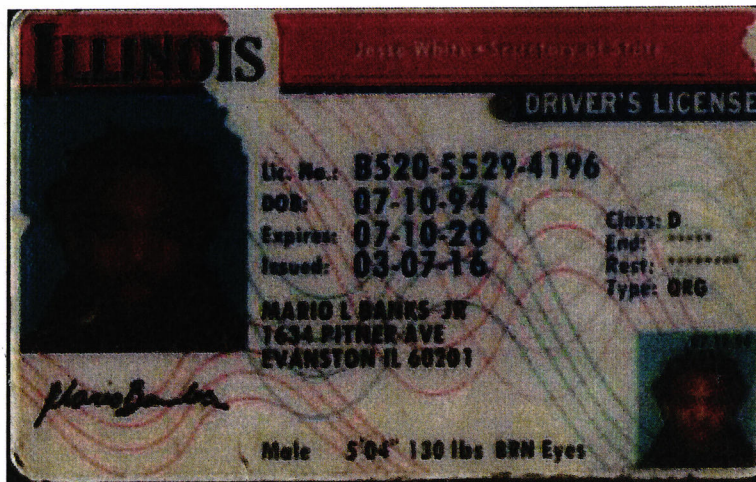
33. On February 21, 2019, officers with the Skokie Police Department (SPD) conducted a traffic stop on the gold Chevrolet Malibu, Illinois license plate number 992491 in the 3400 block of Dempster Avenue, Skokie, Illinois. SPD stopped the vehicle based on its expired registration sticker. The driver was identified as BANKS and the passenger was identified as the registered owner of the vehicle, Individual D

Additional Identification of BANKS

34. EcoATM is company that operates kiosks located in shopping malls and other public places. These kiosks provide cash for cellular telephones that individuals can deposit at the kiosk. In order to obtain cash in exchange for a phone, the individual seeking to exchange a phone must provide a finger print and a driver's

license. In addition, the individual is photographed from several angles during the transaction.

35. On January 30, 2019, BANKS exchanged a Motorola cellular telephone for \$10.00 at an EcoATM kiosk located at Lincolnwood Town Center, 3333 W. Touhy Avenue in Lincolnwood, Illinois. BANKS provided a thumbprint and Illinois Driver's License in connection with the transaction.⁴



36. The kiosk BANKS used on January 30, 2019, captured his image from several angles. Two of those images are shown below. In the first image, BANKS is seen wearing a black facemask that is consistent with the black facemask worn by the individual who robbed Business 1 in Lincolnwood on November 4, 2018, Business 2 in Skokie on February 16, 2019, and Business 1 again on February 19, 2019.

⁴ In addition to the transaction on January 30, 2019, BANKS has exchanged cellular telephones at EcoATM kiosks on seven other occasions between January 30, 2019, and February 24, 2019.




CONCLUSION

37. Based on the foregoing, I believe there is probable cause to believe that: on or about November 4, 2018, MARIO BANKS, JR. did obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by robbery, as defined in Title 18, United States Code, Section 1951(b), in that the defendant did unlawfully take and obtain United States currency from the person and in the presence of an employee of Bucky's Express Mobil gas station located at 6401 N. Cicero Avenue, Lincolnwood, Illinois, against the employee's will, by means of actual and threatened force, and fear of injury to that employee, in violation of Title 18, United States Code, Section 1951(a); and on or about November 4, 2018, at Lincolnwood, in the Northern District of Illinois, Eastern Division, defendant MARIO BANKS, JR., did use, carry, brandish and discharge a firearm during and in relation to a crime of violence for which he may be prosecuted in a court of the United States,

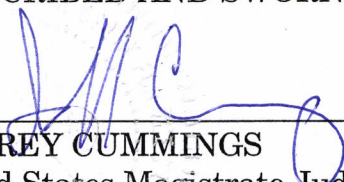
namely, a robbery affecting commerce in violation of Title 18, United States Code, Section 1951(a), as charged in Count One of this Complaint, in violation of Title 18, United States Code, Section 924(c), as charged in Count Two of this Complaint.

FURTHER AFFIANT SAYETH NOT.



TENZIN ATSATSANG
Special Agent, Federal Bureau of
Investigation

SUBSCRIBED AND SWORN to before me on March 21, 2019.



JEFFREY CUMMINGS
United States Magistrate Judge

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	Judge Andrea R. Wood
v.)	
)	Case No. 16 CR 102
MARIO BANKS, JR.)	

SENTENCING MEMORANDUM

Defendant MARIO BANKS, JR., by the Federal Defender Program and its attorney CHRISTINA FARLEY JACKSON, submits the following sentencing memorandum. Pursuant to *United States v. Booker*, 543 U.S. 220, and its progeny, and 18 U.S.C. §3553(a), Mr. Banks requests that this Court sentence him to a term of incarceration of 1 month, followed by 6 months in the Salvation Army, which is sufficient but not greater than necessary to serve all sentencing purposes. In support, Mr. Banks states the following:

I. Background

Mario Banks just turned 23 years old in July of this year. He went to trial in this case and was convicted of manufacturing about \$800 in counterfeit \$100 bills. He is young, recently began substance abuse treatment for marijuana usage, and was employed prior to being incarcerated. He has a tight knit family who continues to be

very supportive. He is someone who will benefit from the structure of the Salvation Army, which will allow him to work and continue to receive treatment for his marijuana addiction.

II. A Sentence of 1 month incarceration, followed by 6 months in the Salvation Army, is Sufficient, But Not Greater Than Necessary to Serve All Sentencing Purposes Under 18 U.S.C. § 3553(a).

Since the Supreme Court made the sentencing guidelines advisory, it has consistently reaffirmed this intent by requiring district courts to consider the sentencing factors outlined in 18 U.S.C. § 3553(a). *United States v. Booker*, 543 U.S. 220 (2005), *Gall v. United States*, 128 S. Ct. 586 (2007); *Rita v. United States*, 127 S. Ct. 2456 (2007); *Kimbrough v. United States*, 128 S. Ct. 558 (2007). The statute lists a number of factors that must be taken into account at sentencing, but it is prefaced with the overarching directive to “impose a sentence sufficient, but not greater than necessary, to comply with the purposes” of sentencing. *Gall v. United States*, 128 S. Ct. at 597 (2007)(quoting 18 U.S.C. § 3553(a)).

The probation office has recommended a sentence of 10 months in this case, which is lower than the advisory guideline range. The guideline range in this case is 21-27 months. However, the recommendation and the advisory range do not adequately take into account the relevant sentencing factors that must guide the Court’s

determination of a sentence that is sufficient, but not greater than necessary, as listed in 18 U.S.C. 3553(a).

A. History and Characteristics

Mr. Banks is a young man who comes from a close family. He is the oldest of three children born to Tamara and Maliq Banks. The family moved from the inner city of Chicago to Evanston so that the children could have a better life and be distanced from the dangerous neighborhood they lived in. See Attachment A (Letter from parents).

In 2012, Mario graduated from Evanston High School. He began working upon graduation and has worked at numerous short-term jobs since 2012. According to his mother, he has always been a "quiet young man." PSR at 12. He does not have a substantial criminal history by any means, with one prior state conviction.

Mr. Banks does have a substance abuse issue. He began using marijuana when he was 16 years old and it was only while on bond in this case that he became exposed to substance abuse treatment. He participated in a mental health assessment in November 2016 and was subsequently referred for treatment in December 2016. His treatment notes indicated that he engaged in therapy on a consistent basis and was "insightful and invested." PSR at 14. As is common in with individuals who face substance abuse issues, he experienced relapses at various points during his pretrial

release. However, it is notable that he remained invested and consistent with his therapy.

While on pretrial release, Mr. Banks violated certain bond conditions, which led to your Honor revoking his bond and placing him in jail. In custody, Mario has reflected on what caused that to occur and recognized the many opportunities that he was given. He sincerely apologizes for his disobedience during that time. See Attachment B (Letter from Mario Banks). He has set long term and short term goals for ensuring that he returns to the law abiding, hard working individual he once was. In the short term, he plans to secure employment with the store that he was working at previously. In the long term, he plans to work toward obtaining his CDL license and going to barber school to work toward achieving his license. He has the support of parents and family, which is where he intends to reside once released. See Attachment C (Letter from sister).

A sentence of 1 month, followed by 6 months in the Salvation Army, will accomplish all of the sentencing purposes and is sufficient, but not greater than necessary. It will provide structure, yet allow him the ability to work and get back to being a hard working, law abiding individual.

B. The Nature and Circumstances of the Offense

Mr. Banks went to trial in this case. The evidence adduced at trial failed as a matter of law to prove that Mr. Banks intended to defraud anyone with a counterfeit \$100 United States Federal Reserve Note. Specifically, the counterfeit notes introduced at trial were found in Mr. Banks' home. There was no evidence that any of the counterfeit notes were ever passed by Mr. Banks. There was no evidence presented that anyone ever attempted to pass the counterfeit notes found in Mr. Banks' home. The government did not present evidence that Mr. Banks ever sold these counterfeit notes or received any money in return. Nor was evidence presented that Mr. Banks ever tried to deceive anyone with these counterfeit notes.

The government referenced two statements by Kahlil Watson. Mr. Watson is an individual who was arrested in October 2014 for passing a counterfeit \$20 at Burger King. When questioned, he allegedly told the Evanston police department detectives that he had obtained this money from Mr. Banks. After providing this information to the EPD detective, Mr. Watson was not charged with passing a counterfeit note. The secret service interviewed Mr. Watson on December 2, 2014 with the hopes of obtaining more information about Mr. Banks. During that interview, Mr. Watson admitted that he lied during the first interview. He denied receiving counterfeit money from Mr.

Banks and further stated that he had never been in Mr. Banks' home and didn't know him very well.

Never-the-less, the Secret Service executed a search warrant at Mr. Banks' home on December 12, 2014. At that time, they found approximately \$800 in counterfeit notes. Mr. Banks explained at that time that he sold cellular telephones to an individual and received counterfeit money.

Neither Mr. Banks nor his parents heard anything from the Secret Service after the search warrant was conducted in December 2014, until he was arrested on March 24, 2016. Mr. Banks understands that your Honor has ruled on the post trial motions in this case and he stands by the position presented in his motions.

III. Conclusion

Mr. Banks respectfully requests that your Honor consider all of the sentencing factors in this case and grant his request for a sentence of 1 month, followed by 6 months in the Salvation Army, which is sufficient but not greater than necessary.

WHEREFORE, for the reasons noted above, Mr. Banks respectfully requests that this Court grant his request.

Respectfully submitted,

FEDERAL DEFENDER PROGRAM
Carol A. Brook
Executive Director

By: s/Christina Farley Jackson
Christina Farley Jackson
Attorney for Mario Banks, Jr.

FEDERAL DEFENDER PROGRAM
55 East Monroe, Suite 2800
Chicago, IL 60603
(312) 621-8327

CERTIFICATE OF SERVICE

The undersigned, Christina Farley Jackson, an attorney with the Federal Defender Program hereby certifies that in accordance with FED.R.CIV.P5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document:

SENTENCING MEMORANDUM

was served pursuant to the district court's ECF system as to ECF filings, if any, and were sent by first-class mail/hand delivery on August 14, 2017, to counsel/parties that are non-ECF filers:

By: s/Christina Farley Jackson
Christina Farley Jackson
FEDERAL DEFENDER PROGRAM
55 E. Monroe St., Suite 2800
Chicago, Illinois 60603
(312) 621-8327

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	Judge Andrea R. Wood
v.)	
)	Case No. 16 CR 102
MARIO BANKS, JR.)	

TABLE OF ATTACHMENTS

ATTACHMENT A: Letter from parents

ATTACHMENT B: Letter from Mario Banks

ATTACHMENT C: Letter from sister

ATTACHMENT A: Letter from parents

July 31, 2017

Dear Judge Woods,

First, thank you for taking the time to read any and all letters on behalf of my son Mario Banks Jr. I'd like to share with you the Mario Banks Jr. that you may not have been able to meet during the process of this trial. The Mario that was raised by a close knit, loving, and God fearing family who've always taught our kids to have respect, morals and honor for themselves, others and the law. Mario comes from a two parent household where he's always seen both of us go to work every day to provide for him and his siblings. I come from a family of six, 4 sisters and 1 brother. My mother died when I was six and my aunt took us in and raised us along with her 3 children. My husband comes from a family of 4, 2 brothers and 1 sister, a single mother household. Being raised on the Westside of Chicago I experienced and heard a lot of criminal activity. One crime being the murder of my brother when I was a junior in high school. His death along with others that I had known, made me realize that when the time came, I did not and could not raise children in this atmosphere. I wanted to give them a chance and therefore moved to the Northside and eventually to Evanston. I wanted them to have a chance at a good education and be able to do the things kids are supposed to do like ride bikes outside and go to the park and play with their friends. Things they were able to experience.

Mario has always done well in school even when he didn't try much. He has never had any social issues and grew up a typical kid making longtime friends that he met in 3rd grade who still keeps in touch with him today. He loves animals, particularly birds,

and any and all exotic animals. During parent teacher conferences, it was always the same thing, "Mario is a joy to have in class". "Mario is so respectful". "Mario is a leader". All the qualities we've instilled in all of kids and to this day I've never heard anyone say different. Mario has always been responsible. From doing chores to making sure his sister and brother walked home safe from school. He never let us down when it came to doing what a big brother was asked to do. We are a family that enjoys each other's company. We laugh together, play pranks on one another and just love spending time together. Something we will miss with Mario if he has to be taken from us for a period of time. I know that we all have to pay the consequences for mistakes we may make whether they are intentional or unintentional but I think the most important lesson to learn is to realize the mistake and not make it again and I believe Mario has done just that. I think given as second chance, Mario will provide to be the responsible, respectful adult we've taught him to be at a young age. Mario doesn't have a problem finding work and going to work. He knows how important education is and plans on picking up a trade and maybe even attending barber school (one of the many things he's taught himself). I ask that when the time come, you'd consider giving a second chance to Mario. He understands that there may be obstacles due to the charge but is willing, with the help of family, to not give up and for every no he may get he just has to try harder and will have to prove himself by his actions. Again, thank you for taking the time to read this letter and please know that no matter what we will support and accept the decision of the court.

Sincerely,

Tamara and Mario Banks

ATTACHMENT B: Letter from Mario Banks

Dear Judge Woods,

As I have my time before the Court to speak, I would like to use this opportunity to apologize. Growing into a young man during this situation, I've learned a lot. I would first like to apologize for my disobedience during my bond release. Looking back at many chances that were given to me, I deserved the discipline. Being in custody has shown me to appreciate my chances and has also shown me where my addiction has led me...in jail, and that's no place to be. I've been away from my family, who are my only supporters. I've hurt them, as well as me, and have cost them money and time that shouldn't have been spent on me in this position. I would also like to apologize to my public defender, the prosecutor, and also you, for the time spent on this case due to my actions. Going forth in my future, I will continue to be a hard working young man, only with more knowledge and more respect for the law. I will not involve myself with anything that could lead me in this position again. I plan to go after my previous job for now and complete a CDL course in between work. Obtaining a barber's license will also make me proud of myself where I can really show my talents and have as a plan B at any time. So again, thank you for this opportunity to speak to the Court.

Sincerely,

Mario Banks

ATTACHMENT C: Letter from sister

Dear Judge Woods,

Hello, my name is Ta'Mia Banks and I am 17 years old. I am the sister of Mario Banks and I can honestly go on and on about him, but for your sake I'll keep it short and brief. Mario is my creative, supportive, loving, protective, caring, crazy in the most wonderful way possible brother. Him being in this position not only hurts him but hurts me and the rest of my siblings. He's my best friend and brother all in one. I know that probably doesn't mean much to you but it means everything to me. Knowing that I can't wake up to my brother, walk in the house and have him bug me or me bug him, and call or text his phone just to mess with him is really driving me crazy. These four weeks have been the longest, most stressful four weeks of my life. If there's one thing I can wish for it would be to have this whole situation disappear but I know I can't make that happen so I'll just continue praying on it. Judge Woods if you can let my brother walk out of that courtroom August 17th I'll be the happiest girl alive but if not I understand, I just ask that you please take in consideration of my requests. I'm going to be a senior starting August 28th and I play basketball. For the seniors during the middle of the season, they have senior night and it's where your family comes out and celebrates you before your game and I would love to have my brother there with me. If you still can't do that Judge Woods I'm begging you to please let my brother out before my prom and my graduation dates. Even though senior night is very important to me those two dates are even more important and I absolutely need my brother there with me to start my next chapter. I know you probably get a lot of these letters and they all may sound the same but please Judge can you take this one on a different level. If you read this letter to my brother can you please tell him I said no matter how hard life gets you still have to fight! Please don't give up on us Mario, I love you. Thank you Judge Woods.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MARIO BANKS JR.

No. 16 CR 102

Judge Wood

GOVERNMENT'S SENTENCING MEMORANDUM

In October 2014, an individual named Kahlil Watson ("Watson") told the Evanston Police Department ("EPD") he had obtained counterfeit currency from his friend Mario Banks, Jr. ("Banks"). Watson further stated that Banks manufactured counterfeit currency in his Evanston home and then sold the counterfeit to other individuals. Watson's statement to law enforcement was corroborated when two trash pulls at Banks's residence turned up evidence of counterfeit manufacturing, including two intact counterfeit notes, a torn up counterfeit note and paper scraps that were the by-product of counterfeit manufacturing. On December 12, 2014, Secret Service executed a search warrant at the residence, seizing a color printer and approximately \$900 in counterfeit currency from Banks's basement bedroom. Starting on February 13, 2017, the Court presided over a jury trial of this matter which resulted in Banks being found guilty of counterfeiting eight, \$100 notes in violation of Title 18, United States Code, Section 471.

The government acknowledges the defendant's relative youth at the time of the offense as a factor weighing in favor of mitigation. However, based on the nature of the offense and relevant conduct, defendant's criminal history, and defendant's

conduct while on supervised release, the government believes that consistent with all of the factors set forth in Section 3553(a) a sentence within the Guidelines range of 21 to 27 months' imprisonment is necessary to promote respect for the law by the defendant, and to adequately deter Banks from engaging in such conduct in the future.

I. THE OFFENSE OF CONVICTION AND RELEVANT CONDUCT

Unless otherwise noted, the following facts regarding the offense of conviction and relevant conduct are derived from the testimony and exhibits admitted at trial in this matter.

A. Kahlil Watson's Statements to the Evanston Police Department¹

In October 2014, Kahlil Watson used a \$20 bill to make a purchase at a Burger King in Evanston, Illinois. (EPD Report, attached as Ex. A to Govt. Version). The cashier, who recognized Watson from school, believed the bill to be counterfeit and alerted the store manager to what had occurred. (*Id.*) The manager reported the incident to EPD. (*Id.*)

On October 22, 2014, EPD arrested Watson for passing counterfeit U.S. currency at the Burger King. (*Id.*) During a custodial interrogation following his arrest, Watson told EPD detectives that he knew the currency he presented at the Burger King was counterfeit. (*Id.*) Watson further stated that he had obtained the

¹ The facts in this section are derived from EPD and ATF reports, and are not based on evidence presented at trial.

counterfeit currency from Banks. (*Id.*) Watson related that Banks was a close friend who Watson knew to be involved in producing counterfeit U.S. currency in his bedroom at the residence at 1634 Pitner Avenue in Evanston. (*Id.*) Watson stated that on several occasions he witnessed Banks printing off sheets of counterfeit notes in Banks's bedroom within the family residence. (*Id.*) According to Watson, Banks was selling the counterfeit currency. (*Id.*)

On December 2, 2014, Secret Service attempted a second interview of Watson to obtain further information about Banks. (ATF Report, attached as Ex. B to Govt. Version). During this interview, Watson stated he did not know Banks very well and had never been in Banks's home. (*Id.* at pg. 3). Watson also denied knowingly possessing and passing counterfeit currency or knowingly receiving counterfeit currency from Banks. (*Id.*) When confronted with his earlier statement, Watson claimed that he fabricated the information he originally gave EPD. (*Id.*)

B. Trash Pulls at Banks's Residence

Based on Watson's original statement to law enforcement, agents conducted several trash pulls at the Banks residence in Evanston.

On November 20, 2014, Secret Service and EPD conducted a trash pull at Banks's residence. (Trial Testimony of EPD Detective Mike Jones). Among the trash, agents found a clear plastic personal bag. (*Id.*) The parties stipulated at trial that this bag was acquired by Banks on September 19, 2014. (Stipulation No. 2). Within the personal property bag, agents found numerous strips of white paper that are

approximately the same length as U.S. currency and appear to be consistent with a person cutting the edges from the printed area of paper, as Watson described Banks doing. (Gov. Ex. 107; M. Jones Trial Testimony). Along the edges of these strips there is green and orange ink that is consistent with residue from counterfeit manufacturing. (Gov. Exs. 103, 104, 105, 106 and 107; M. Jones Trial Testimony). Within the bag, agents also found six strips of paper, approximately 5 inches in length, bearing the image of small, gold rectangle, similar in appearance to cell phone SIM card. (Gov. 106; M. Jones Trial Testimony).

On December 4, 2014, Secret Service agents and EPD conducted a second trash pull at Banks's residence. (M. Jones Trial Testimony). A tied-up plastic grocery bag was found with strips of white paper with green and orange ink, similar to those found in the prior trash pull and consistent with the residue from counterfeit manufacturing. (Gov. Exs. 205 and 206; M. Jones Trial Testimony). In that same bag, agents also found one intact counterfeit \$20 note and one intact counterfeit \$10 note, as well as torn pieces of counterfeit \$20 notes. (Gov. Ex. 207; M. Jones Trial Testimony; Trial Testimony of Special Agent Therron Hess). Banks's fingerprints were found on one piece of the torn-up \$20 note and on dozens of pieces of counterfeit manufacturing scraps found in the trash behind the Banks residence on December 4, 2014. (Trial Testimony of Fingerprint Expert Brian Jones).

C. Evidence of Counterfeiting Found During a Search of the Banks Residence

On December 12, 2014, Secret Service executed a search warrant at Banks's residence. (Hess Trial Testimony). In a basement room that the parties' stipulated was Banks's bedroom, agents recovered \$880 in counterfeit U.S. currency.² Seven counterfeit \$100 notes were found stuck inside of a book. (Gov. Ex. 414; Hess Trial Testimony). Another counterfeit \$100 note and counterfeit \$20 notes were found folded up and stuck in a windowsill crack. (Gov. Ex. 412; Hess Trial Testimony). Two counterfeit \$5 notes were found on a desk in the bedroom. (Gov. Ex. 413; Hess Trial Testimony). The agents found two pair of scissors in Banks's bedroom. (Stipulation No. 3). Stuck inside a winter glove, agents found an intact copy of a \$20 note on a full sheet of printer paper that had not yet been cut out. (Gov. Ex. 416; Hess Trial Testimony). The same image of a gold sim card that had been found on cut scraps in the trash pulls was on this piece of paper bearing the image of a \$20 note. (*Id.*) In the bedroom, agents found a gold T-Mobile sim card bearing the same serial number as the image on the intact \$20 note found in the bedroom and the cut counterfeiting scraps found during the trash pulls. (Gov. Ex. 417; Hess Trial Testimony).

² Although testimony was not presented on this fact during trial, agents also found a .22 caliber round in Banks's bedroom. (Ex. B to Govt. Version at 4). At the time of the search, Banks was out on bond in connection with an unauthorized use of a weapon case pending in Cook County. The discovery of the .22 caliber round led EPD to take Banks into custody for violating his bond conditions in that case.

Agents did not find counterfeit currency anywhere in the Banks residence other than the defendant's bedroom. (Hess Trial Testimony).

Just outside Banks's bedroom in the basement, agents found a color copier/printer. (Gov. Ex. 411; Hess Trial Testimony). Banks's fingerprint was found on the glass surface of the copier/printer. (B. Jones Trial Testimony). At trial, Special Agent Hess testified that he believed the counterfeit found in the residence could have been made with the color copier/printer found outside Banks's bedroom. (Hess Trial Testimony). Special Agent Hess further testified that he believed Banks used the sim card found in his bedroom to position the counterfeit on the printer, explaining why the image was found on the scraps found in the trash and the piece of paper found in defendant's bedroom. (*Id.*).

D. Banks's Statement to Law Enforcement During the Search³

During the search of the residence, Banks was advised of his *Miranda* rights, signed a written waiver of those rights and agreed to speak to law enforcement. (Ex. B to Govt. Version at pg. 4). In response to questions from Special Agent Melinda McCarthy and EPD Detective Michael Jones, Banks stated that he had never manufactured counterfeit currency and claimed that he did not know how to do so. (*Id.*). Banks further stated that he believed he had received some counterfeit when he sold cellular telephones to an unidentified individual, but that he threw the

³ This section is not based on evidence introduced at trial, but is instead based on the ATF report submitted with the Government Version as Exhibit B.

counterfeit away upon discovering that it was counterfeit. (*Id.*). Banks also stated that he might have a counterfeit note in the pocket of his jacket in the house, but that he was not involved in manufacturing counterfeit currency. (*Id.*).

E. Evidence of Banks's Counterfeit Notes Being Passed in the Chicago Area

Secret Service maintains a database in which it records the receipt of counterfeit notes it receives from banks and businesses. (Trial Testimony of Special Agent Melinda McCarthy). Serial numbers are unique to each piece of U.S. currency. (*Id.*). In 2014 and 2015, Secret Service recorded in its database that it received notes bearing serial numbers identical to those found on the counterfeit \$10 note (Gov. Ex. 207), \$100 notes (Gov. Ex. 412 and 414), and \$5 note (Gov. Ex. 413) found at the Banks residence. (McCarthy Trial Testimony). The Secret Service records themselves were not admitted at trial, but those records, which are submitted with the Government Version, show that notes matching the notes found at Banks's residence were passed in Evanston and the Chicago area. (Secret Service Database Search Results, attached as Exs. C through G to Govt. Version). This is consistent with Watson's original statement to EPD regarding defendant's counterfeiting activities.

F. Victim Impact

The victim in this case are the banks, businesses and individuals who received counterfeit currency that Banks manufactured and which Banks caused to enter into

the stream of commerce by either using the counterfeit currency himself or selling/giving the counterfeit currency to others.

II. ADVISORY SENTENCING GUIDELINES CALCULATIONS

The government agrees with the criminal history and offense level calculations set forth in the Presentence Investigation Report submitted by the United States Probation Office.⁴ Pursuant to these calculations, defendant's offense level is 15, and his criminal history category is II, resulting in an advisory Guidelines imprisonment range of 21 to 27 months. PSR ¶ 21-41, 82.

III. THE FACTORS SET FORTH IN SECTION 3553 WARRANT A SENTENCE THAT IS WITHIN THE ADVISORY GUIDELINES RANGE

For the reasons discussed below, the government submits that, consistent with all of the factors set forth in Section 3553, a sentence within the Advisory Guidelines Range of 21 to 27 months is necessary to promote respect for the law by the defendant and provide for adequate specific deterrence for the defendant.

A. History and Characteristics of Defendant

Section 3553(a)(1) directs that in determining an appropriate sentence, the Court shall consider not only the nature and circumstances of the offense, but the history and characteristics of the defendant. While defendant's relative youth at the time of the offense is a factor weighing in favor of mitigation, there are several

⁴ In the Government Version, the government took the position that the offense level should be increased by 2 levels, pursuant to Guideline § 3C1.1, because the defendant willfully obstructed or impeded, or attempted to obstruct or impede the administration of justice. However, after reviewing the application notes to Guideline § 3C1.1 and relevant case law, the government is not seeking application of the 2-level increase under this provision.

countervailing aspects of the defendant's history and characteristics showing that a sentence within the Guidelines range is necessary in this case in order to promote respect for the law by the defendant and to deter the defendant from future criminal conduct.

When defendant was 19, the Evanston Police Department attempted to stop the defendant while he was riding on a bicycle. PSR ¶39. Defendant attempted to flee the police but was eventually apprehended and found to be in possession of a loaded .38 caliber revolver. *Id.* Defendant pled guilty to unlawful use of a weapon and was sentenced to one year incarceration as a result of this conduct. *Id.* He was paroled on December 26, 2014. At this point, defendant unquestionably understood that criminal conduct came with consequences and he had an opportunity and motivation to turn away from criminal activities. Instead, while on parole for his weapons conviction in 2015,⁵ the defendant decided to begin counterfeiting and selling United States currency. When he was confronted by law enforcement about his conduct, he decided to lie to the law enforcement officers, claiming that he had never engaged in counterfeiting. These facts alone establish the need for a significant custodial sentence to deter the defendant from future criminal conduct.

Defendant's conduct since he was indicted for counterfeiting further underscores defendant's contempt for the law and the need for a Guidelines sentence

⁵ See Pretrial Services Report dated 3/24/16.

in this case. During the period in which he was on pretrial release, defendant violated the terms of his release dozens upon dozens of times by, *inter alia*, not remaining in his home, not being home when directed, not communicating with Pretrial Services as directed, failing to report contact with law enforcement and repeatedly testing positive for drug use (and, by necessity, illegally obtaining and possessing the marijuana he was using during this period). The defendant did these things after the Court *repeatedly* warned him of the consequences of failing to comply with the terms of his release.

In its sentencing recommendation, Pretrial Services suggests that defendant's participation in substance abuse treatment is a factor weighing in favor of a below-Guidelines sentence. However, this ignores the fact that defendant consistently lied to his substance abuse counselor when, according to the Pretrial Services reports, defendant repeatedly reported to his counselor that he was refraining from drug use. The fact that defendant dutifully showed up to the counseling sessions only to lie to the counselor speaks to defendant's character and weighs in favor of the need for a Guidelines sentence.

In short, from his unlawful possession of loaded firearm up through this period of pretrial supervision by this Court, defendant has consistently demonstrated a pronounced lack of respect for the law and the authority of the Court.

B. Nature and Circumstances of the Current Offense

The nature and circumstances of the offense are set forth above in Section I. Although the amount of counterfeit currency found in defendant's home was relatively small, the evidence indicates that the defendant was actively engaged in manufacturing and selling counterfeit currency beyond what was found in his home. The evidence supporting this inference includes the evidence of counterfeiting activity found during the trash pulls, the statement of Khalil Watson, as well as the Secret Service records of reported circulation of counterfeit currency matching the currency found in the Banks residence, which corroborates Watson's statement that defendant was selling the counterfeit currency that he manufactured.

C. Need to Promote Respect for the Law, Provide Just Punishment, and Afford Adequate Deterrence

As discussed above, defendant has been given several opportunities in his life to demonstrate his respect for the law, both when he was paroled following his State weapons charge and after he was charged with the instant offense. When given those opportunities, the defendant has repeatedly and consistently demonstrated contempt for the law and the authority of the Court. A sentence within the Guidelines range is necessary in this case in order to promote respect for the law by the defendant, to deter the defendant from future criminal conduct, and to provide a just punishment for his crime.

D. Restitution

Although the Indictment contains a forfeiture allegation, the government has dismissed all but one of the forfeiture allegations. The defendant has waived his right to a jury determination of forfeiture. At sentencing, the government will be seeking a judicial determination of forfeiture of the color printer/copier entered into evidence at trial as Gov. Ex. 411.

IV. Supervised Release

In *United States v. Thompson*, 777 F.3d 368 (7th Cir. 2015), the Seventh Circuit held that sentencing courts must make an independent determination that each condition of supervised release imposed on a defendant is rationally and reasonably related to the offense conduct and characteristics, and to the sentencing purposes identified by 18 U.S.C. §§ 3583(c) and 3553(a)(1), (a)(2)(C), and (a)(2)(D). *Thompson*, 777 F.3d at 373-74. This Court must state the reasons for imposing each condition, and ensure each condition is not broader than necessary to achieve the purposes of sentencing. *Id.*

In light of the Court's ruling in *Thompson*, the government respectfully requests that the Court impose a sentence that includes a term of supervised release of three years and that the Court impose the following conditions of supervision.

A. Mandatory Conditions

The following conditions are mandatory under 18 U.S.C. § 3583(d):

1. The defendant shall not commit another federal, state, or local crime.
See U.S.S.G. § 5D1.3(a)(1).

2. The defendant shall not unlawfully possess a controlled substance.
See U.S.S.G. § 5D1.3(a)(2).

3. The defendant shall cooperate in the collection of a DNA sample if the collection of such a sample is required by law. *See* U.S.S.G. § 5D1.3(a)(8).

4. The defendant shall pay fine in compliance with federal law and instructions of the Court. *See* U.S.S.G. § 5D1.3(a)(5).

B. Discretionary Conditions

Under 18 U.S.C. § 3583(d), the Court has discretion to impose conditions of supervised release that are “reasonably related” to the factors set forth in 18 U.S.C. § 3553(a), that “involve[] no greater deprivation of liberty than is reasonably necessary,” to meet the goals of § 3553(a), and that are “consistent with any pertinent policy statements issued by the Sentencing Commission.” The following conditions are consistent with the factors set forth in § 3553(a) and should be imposed on the basis that they facilitate supervision by the probation officer, to promote the defendant’s respect for the law, and to deter him from future crimes.

To promote defendant’s respect for the law and deter him from future crimes, the Court should order that:

1. As a convicted felon, and based on the nature of the conduct in this case involving threats of violence, the Court should order that the defendant should

refrain from possessing a firearm, destructive device, or other dangerous weapon.
See U.S.S.G. § 5D1.3(d)(1).

**To facilitate the probation officer's supervision of the defendant,
the Court should order that:**

1. The defendant shall not leave the judicial district in which he is being supervised without the permission of the Court or the probation officer.

See U.S.S.G. § 5D1.3(c)(1).

2. The defendant shall report to the probation officer as directed.

See U.S.S.G. § 5D1.3(c)(2).

3. The defendant shall truthfully answer the inquiries of the probation officer. *See* U.S.S.G. § 5D1.3(c)(3).

4. The defendant shall permit the probation officer to visit the defendant at home, work or at a community service location at any reasonable time. *See* U.S.S.G. § 5D1.3(c)(10).

5. The defendant shall notify the probation officer within 72 hours of any change in his residence or employment. *See* U.S.S.G. § 5D1.3(c)(6).

6. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer. *See* U.S.S.G. § 5D1.3(c)(11).

V. CONCLUSION

For the foregoing reasons and consistent with the goals of Title 18, United States Code, Section 3553, the government respectfully requests that the Court sentence defendant to a sentence below the Guidelines range of 21 to 27 months' imprisonment, along with three years of supervised release, subject to the conditions set forth herein.

Respectfully submitted,

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Dated: August 1, 2017